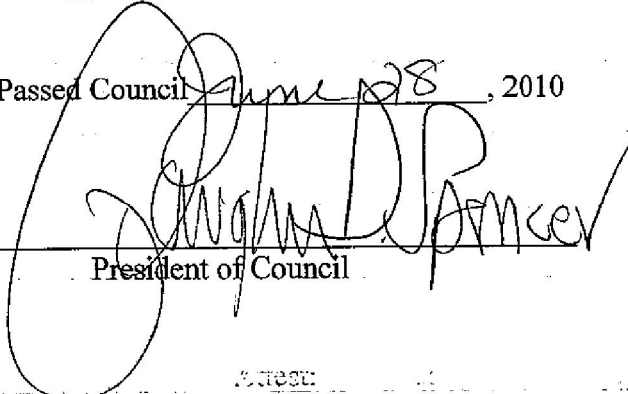


RESOLUTION NO. 68 -2010

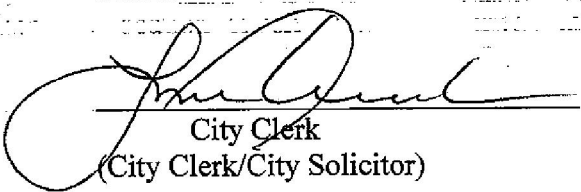
THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS FOLLOWS:

That the Stipulation to Amend Decision of the City of Reading Zoning Hearing Board, attached hereto as Exhibit "A," in resolution of the matter of Reading Parking Authority, Appellant v. Zoning Hearing Board of the City of Reading, Appellee and Greater Berks Development Fund and the City of Reading, Interveners, Berks County Court of Common Pleas Docket No. 09-13041 Civil Action – Land Use Appeal is approved.

Passed Council June 28, 2010


President of Council

Attest:


City Clerk
(City Clerk/City Solicitor)

Attest:


City Clerk
(City Clerk/City Solicitor)

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Resolution passed by the Council of the City of Reading, on the 28 day of June A. D. 20 10. Witness my hand and seal of the said City this 28 day of June A. D. 20 10.


CITY CLERK

EXHIBIT A

10/1/2010

KOZLOFF STOUT
Professional Corporation
By: *James M. Lillis, Esquire*
Attorney ID# 36661
2640 Westview Drive
P.O. Box 6286
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(610) 670-2552

Attorneys for Appellant

| | | | |
|---|---|-----------------------------------|---|
| READING PARKING AUTHORITY Appellant | : | IN THE COURT OF COMMON PLEAS | : |
| | : | OF BERKS COUNTY, PENNSYLVANIA | : |
| | : | | : |
| vs. | : | LAND USE APPEAL vs. | : |
| | : | | : |
| ZONING HEARING BOARD OF THE CITY OF READING, Appellee | : | NO. 09-13041 | : |
| and | : | | : |
| GREATER BERKS DEVELOPMENT FUND and CITY OF READING, Intervenors | : | ASSIGNED TO: JEFFREY SPRECHER, J. | : |
| | : | | : |
| | : | Intervenor | : |

STIPULATION TO AMEND DECISION OF ZONING HEARING BOARD
OF THE CITY OF READING

It is hereby stipulated by and among the undersigned counsel for the Appellant, READING PARKING AUTHORITY, Appellee, ZONING HEARING BOARD OF THE CITY OF READING, and Intervenor, GREATER BERKS DEVELOPMENT FUND, as follows:

1. Intervenor, Greater Berks Development Fund, was Applicant pursuant to Appeal No. 2009-44, before the Appellee, Zoning Hearing Board of the City of Reading, Pennsylvania. Appellant, Reading Parking Authority, appeared and participated at hearing of 2009-44 before the Zoning Hearing Board ("Zoning Hearing Board") held on August 19, 2009. After hearing, Appellee, Zoning Hearing Board of the City of Reading, on September 16, 2009, entered a Decision, granting certain relief to Greater Berks Development Fund, which Decision, in

addition to granting such relief, included Findings of Fact, Discussion, and Conclusions of Law (hereinafter "Zoning Board Decision"), attached hereto at Exhibit "A".

2. On October 15, 2009, Appellant, Reading Parking Authority, filed the within Appeal asserting, among other things, that the relief granted by the Zoning Hearing Board granted the permission to use property at 225 Penn Street as a private parking lot for reasons unsupported by the record and prevailing law.

3. The Reading Parking Authority agrees and hereby declares that it does not oppose or object to the Decision or the granting of specific relief by Appellee, Zoning Hearing Board of the City of Reading, to the extent that the subject property at 225 Penn Street, City of Reading, Pennsylvania, may be used as a private parking lot as requested pursuant to Intervenor, Greater Berks Development Fund's Application; but does object to certain wording in the Decision that could be interpreted as an adjudication that the Zoning Ordinance of the City of Reading is invalid or has any improper provisions.

4. All parties to this appeal are willing to modify the language of the written decision that concerns the Parking Authority in this matter as a means of resolving this appeal by agreement. Accordingly, the parties hereto stipulate and agree that the Decision shall be amended, in pertinent part only, as follows:

Paragraph 16 of the Findings of Fact shall read in its entirety as follows:

16. Applicant has demonstrated the proposed use is an expansion of an existing parking lot and/or an accessory use permitted by right.

Paragraph 4 of the Conclusions of Law is amended to read in its entirety as follows:

4. After reviewing Applicant's request in detail, the Zoning Hearing Board enters the Decision.

- a. Applicant's parking lot is permitted as an accessory use and/or the proposed use is an expansion of an existing parking lot pursuant to Section 27-603 of the Zoning Ordinance.
- b. Ingress only shall be allowed at the Penn Street entrance. Ingress and egress are allowed at the Court Street entrance.
- c. The relief granted herein is conditioned upon Applicant complying with all relevant building and occupancy codes and ordinances as well as the plans and testimony submitted before the Zoning Board.
- d. Applicant may not use, expand, alter or otherwise the Subject Property inconsistently with the contents of this Decision without making application requesting further relief from the Zoning Board.
- e. Failure to comply with any of these above-referenced conditions shall mean the immediately revocation of the relief granted herein.

5. Except as otherwise specifically set forth in Paragraph 4 above, the Decision shall be and remain unchanged and otherwise fully effective.

This Stipulation has been executed this _____ day of _____, 2010.

READING PARKING AUTHORITY,
Appellant

By: _____
James M. Lillis, Esquire

ZONING HEARING BOARD OF
THE CITY OF READING
Appellee

By: _____
Stephen H. Price, Esquire

**GREATER BERKS DEVELOPMENT
FUND**

Intervenor

By: _____
Eugene Orlando, Esquire

CITY OF READING

Intervenor

By: _____
Michelle R. Mayfield, Esquire

KOZLOFF STOUDT
Professional Corporation
By: *James M. Lillis, Esquire*
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(610) 670-2552

Attorneys for Appellant

READING PARKING AUTHORITY
Appellant
vs.
ZONING HEARING BOARD OF THE
CITY OF READING,
Appellee
and
GREATER BERKS DEVELOPMENT
FUND and CITY OF READING,
Intervenors

: IN THE COURT OF COMMON PLEAS
: OF BERKS COUNTY, PENNSYLVANIA
:
: LAND USE APPEAL
:
: ZONING HEARING BOARD OF THE
: NO. 09-13041
:
: ASSIGNED TO: JEFFEREY SPRECHER, JUDGE
:
:

ORDER

AND NOW, this ____ day of _____, 2010, upon the within Stipulation by
and among counsel for Appellant, Reading Parking Authority, Appellee, Zoning Hearing Board
of the City of Reading, and Intervenors, Greater Berks Development Fund and City of Reading,
it is hereby ORDERED that the Appeal filed to the above term and number is hereby sustained to the
the extent, and only to such extent, that the Decision of the Zoning Hearing Board of the City of
Reading of September 19, 2009, is amended as follows:
Paragraph 16 of the Findings of Fact shall read in its entirety as follows:
16. Applicant has demonstrated the proposed use is an
expansion of an existing parking lot and/or a use permitted
by right.

Paragraph 4 of the Conclusions of Law is amended to read in its entirety as follows:

4. After reviewing Applicant's request in detail, the Zoning Hearing Board enters the Decision.

a. Applicant's parking lot is permitted as a permitted accessory use and/or the proposed use is an expansion of an existing parking lot pursuant to Section 27-603 of the Zoning Ordinance.

b. Ingress only shall be allowed at the Penn Street entrance: Ingress and egress are allowed at the Court Street entrance.

c. The relief granted herein is conditioned upon Applicant complying with all relevant building and occupancy codes and ordinances as well as the plans and testimony submitted before the Zoning Board.

d. Applicant may not use, expand, alter or otherwise the Subject Property inconsistently with the contents of this Decision without making application requesting further relief from the Zoning Board.

e. Failure to comply with any of these above-referenced conditions shall mean the immediately revocation of the relief granted herein.

Each party shall bear its own costs.

BY THE COURT:

J.